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Report

Civil Liability for Invasion of Privacy (HKLRC Report)

The Law Reform Commission released its report on *Civil Liability for Invasion of Privacy* on 9 December 2004. The report examines whether an individual should be entitled to seek civil remedies for invasion of privacy that is unwarranted in the circumstances.

The Commission concludes that one or more specific torts of invasion of privacy which clearly define the act, conduct and/or publication which frustrates the reasonable expectation of privacy of an individual without justification should be created by statute.

The Commission recommends that:

- any person who, without justification, intrudes upon the solitude or seclusion of another or into his private affairs or concerns in circumstances where the latter has a reasonable expectation of privacy should be liable under the law of tort if the intrusion is seriously offensive or objectionable to a reasonable person;
- it should be a defence to an action for the intrusion tort to show that the act in question was necessary for:
 - a. the protection of the person or property of the defendant or another;
 - b. the prevention, detection or investigation of crime;
 - c. the prevention, preclusion or redress of unlawful or seriously improper conduct; or
 - d. the protection of national security or security in respect of Hong Kong;
- any person who, without justification, gives publicity to a matter concerning the private life of another should be liable under the law of tort if (a) the publicity is of a kind that would be seriously offensive or objectionable to a reasonable person and (b) he knows or ought to know that the publicity would be seriously offensive or objectionable to such a person;
- it should be a defence to an action for unwarranted publicity to show that the publicity was in the public interest. Guidance as to what kinds of publicity would be presumed to be in the public interest should be given in the legislation;

- serious consideration should be given to according legal protection to individuals against the unauthorised use of their name, likeness or other indicia of identity for a purpose other than for the legitimate information of the public;
- unless the recommendations in the Report on Privacy and Media Intrusion in relation to inaccurate reports in the print media about an individual have been implemented in full, the legislation should create a right to correct factual inaccuracies about an individual published in the press.


This report follows detailed consideration by the Commission of responses to a consultation paper issued by the LRC's Privacy sub-committee, chaired by Dr John Bacon-Shone, in 1999, and is published together with the Report on *Privacy and Media Intrusion*.

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